

APPEAL NO. 040085
FILED MARCH 3, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 16, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury with a date of injury of _____. The appellant (carrier) appeals this determination. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury is a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer distinguished the claimant's condition in 1989 or 1990 from his condition in 2003 and determined that the claimant met his burden of proving that he sustained a compensable occupational disease injury with a date of injury of _____. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN PROTECTION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge